

IN RE: PETITION FOR SPECIAL VARIANCE * BEFORE THE
E/S Hilton Terrace, 180 ft. * ZONING COMMISSIONER
+/- NELY of c/l Oak Court * OF BALTIMORE COUNTY
(6 lots) *
1st Election District *
1st Councilmanic District * Case No. 92-43-SA
Joseph C. Fertitta, et ux *
Petitioners *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Special Variance from Section 4A02.4.D of the Baltimore County Zoning Regulations (B.C.Z.R.) pursuant to Section 4A02.4.F.1 of the B.C.Z.R. relating to transportation standards of intersections for a non-industrial development.

The Petitioners, Joseph C. and Marie Fertitta appeared, testified and were represented by John H. Dumler, Esquire. Also appearing and testifying on behalf of the Petition was Paul Lee, the Engineer who prepared the plat to accompany the Petition for Special Variance, marked as Petitioners' Exhibit No. 1. Appearing as Protestants were Ann Klingaman, Mary Stigler and Robert Windsor, all residents of the neighboring locale.

Testimony from Mr. Lee established that the subject property is 4.25 acres (+/-) in size and is zoned D.R.3.5. Presently, the property is vacant, however, development as residential detached lots is proposed. Although 14 lots would be allowed under the applicable zoning density, only 6 lots are proposed.

Mr. Lee also reviewed the extensive history of this project, which began in 1987. He testified that the C.R.G. plan was originally approved on April 22, 1988 and that extensions and refinements to the aforementioned

tioned plan were ultimately approved by the County Review Group earlier this year. Further, the developer's storm water management variance request was granted on December 4, 1990 and the subdivision plat for the 6 lots was recorded on June 17, 1991. Lastly, building permits for the 6 properties were approved on April 11, 1991.

In addressing the subject Petition for Special Variance, it is vital to distinguish the relief which is being requested versus the concerns which were voiced by the Protestants. The Petition before me does not seek relief from the current school moratorium legislation (Bill 127-90) nor does it relate to storm water management issues. As to the school moratorium legislation, the Baltimore County Office of Law, by its written opinion dated April 11, 1991, held that the Petitioner is grandfathered from that requirement because his actions satisfy the requirements of the due diligence exception within the legislation. That is, the Office of Law has opined that the Petitioner acted in due diligence in moving this project forward to approval and is thereby exempt from the moratorium. As to the storm water management issues, there was extensive discussion of those at the hearing. Mr. Lee addressed the storm water ramifications of this project in detail in order to satisfy the expressed concerns of the Protestants.

As indicated above, the storm water management variance was granted in December of 1990 and this project has been approved by the C.R.G. Thus, the sole issue for the Zoning Commissioner to decide is whether the special variance should be granted.

In support of this Petition, Mr. Lee stated that the subject development will not adversely impact the failing intersection at Valley and South Rolling Roads, because most traffic generated by the development will be routed away from that intersection. Thus, Mr. Lee concluded, the

impact of the development proposed would be less than assumed by the district standard that would, otherwise, restrict or prohibit the development. Further, Mr. Lee testified that the granting of the Petition would not adversely affect any other person whose application was filed prior to the Petitioners' application, as required by Section 4A02.4.F.1b. As indicated above, there was little testimony from the Protestants as to this issue; rather, their concerns over storm water management were voiced. In that Mr. Lee's testimony in support of the Petition was uncontradicted, it is my opinion that the Petition for Special Variance be granted and it shall be so ordered.

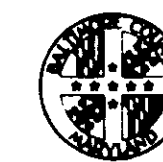
Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 11th day of July, 1991 that a special variance from Section 4A02.4.D of the Baltimore County Zoning Regulations (B.C.Z.R.), pursuant to Section 4A02.4.F.1 of the B.C.Z.R. relating to transportation standards of intersections for a non-industrial development, be and is hereby GRANTED, subject, however, to the following restriction which are conditions precedent to the relief granted:

1. The Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

ORDER RECEIVED FOR FILING
Date 11/18/91
BY LES/mm



Petition for Variance

to the Zoning Commissioner of Baltimore County

92-43-SA

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Variance from Section 4A02.4.D of the Baltimore County Zoning Regulations (B.C.Z.R.) pursuant to Section 4A02.4.F.1 of B.C.Z.R. relating to transportation standards of intersections for a non-industrial development.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty.)
A. That the demand or impact of the development proposed will be less than that assumed by the district standard that would otherwise restrict or prohibit the development; or the standard is not relevant and
B. The granting of the petition will not adversely affect a person whose application was filed prior to the petitioners application in accordance with subsection 4A02.4.F.1b of B.C.Z.R. Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc. upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I We do solemnly declare and affirm under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Legal Owner(s):

Joseph C. Fertitta

Signature

Marie Fertitta

(Type or Print Name)

Signature

1322 Ridge Road

Address

Baltimore, Maryland 21228

City and State

Phone No.

John H. Dumler

Name

See above

Address

Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING - 1/2HR. + 1HR.

AVAILABLE FOR HEARING

MON./TUES./WED. - NEXT TWO MONTHS

ALL OTHER

REVIEWED BY: CAN

DATE: 11-17-91

ORDER RECEIVED FOR FILING

Date 11/18/91

BY LES/mm

Paul Lee P.E.

Paul Lee Engineering Inc.
304 W. Pennsylvania Ave.
Towson, Maryland 21204
301-921-5341

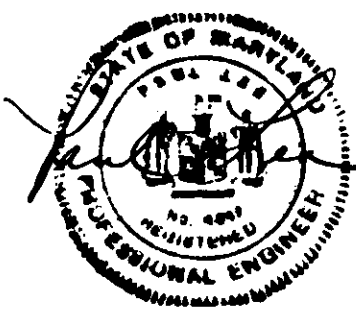
DESCRIPTION

92-43-SA

FERTITTA PROPERTY
HILTON TERRACE NORTH OF OAK COURT
ELECTION DISTRICT 1C-1
BALTIMORE COUNTY, MARYLAND

Beginning for the same at a point on the east side of Hilton Terrace, said point also being located N 44°33'00" E 180 feet ± from the center of Oak Court; thence leaving said point and binding on the south property line of subject property (1) S 41°27'00" W 690.00 feet; thence leaving said south property line (2) N 48°33'00" W 264.92 feet, thence (3) N 41°27'00" E 708.53 feet, and (4) S 44°33'00" E 265.57 feet to the point of beginning.

Containing 4.25 acres of land, more or less.



Engineers — Surveyors — Site Planners
J.O. #88038 7/16/91

111 West Chesapeake Avenue
Towson, MD 21204

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning



COPY

September 11, 1991

NOTICE OF REASSIGNMENT

CASE NUMBER(S): 92-43-SA
PROPERTY OWNER(S): Joseph C. Fertitta
LOCATION: E/S Hilton Terrace, 180' NELY Oak Court

THE ABOVE MATTER HAS BEEN REASSIGNED. HEARING WILL NOW TAKE PLACE AS FOLLOWS:

TUESDAY, OCTOBER 8, 1991 at 9:00 a.m.

IN THE BALTIMORE COUNTY COURTHOUSE, 400 WASHINGTON AVENUE, ROOM 118,
TOWSON, MARYLAND 21204.

J. Robert Haines

ZONING COMMISSIONER
BALTIMORE COUNTY

cc: John H. Dumler, Esq.

Joseph C. Fertitta, et ux

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 at 9:00 a.m.

Case Number: 92-43-SA
E/S Hilton Terrace, 180' (+/-) NELY of Oak Court (6 lots)
1st Election District
1st Councilmanic District
Petitioner(s):
Joseph C. Fertitta, et ux
Hearing Date: Wednesday October 3, 1991 at 9:00 a.m.

Special Variance relating to transportation standards of intersections for a non-industrial development.
Zoning Commissioner of Baltimore County
CUB/303 August 28

CERTIFICATE OF PUBLICATION

TOWSON, MD., Aug 30, 1991

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on Aug 24, 1991.

THE JEFFERSONIAN,

S. Zake Orlean
Publisher

503-54.00

CERTIFICATE OF PUBLICATION

THIS IS TO CERTIFY, that the annexed advertisement was published in the CATONSVILLE TIMES, a weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on Aug 24, 1991.

CATONSVILLE TIMES

S. Zake Orlean
Publisher

303-54.00

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 1C-1
Posted for: Joseph C. Fertitta, et ux
Petitioner: Joseph C. Fertitta, et ux
Location of property: E/S Hilton Terrace, 180' NELY of Oak Court (6 lots)
Location of Sign: North side of Oak Court on West of Hilton Terrace
Remarks: Special Variance 92-43-SA FOR NEW DATE
Posted by: J. Robert Haines
Date of return: 9-12-91
Number of Signs: 1

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-4150
Number

Date

HEARINGS FEE

POSTING FEE

STAMPING FEE

TOTAL: \$210.00

NAME OF OWNER: FERTITTA

6 Special Variance

04A04W0131RCHRC

04B001102PMD7-18-91

\$210.00

DATE: 9/9/91

COPY

Joseph and Marie Fertitta
1322 Ridge Road
Baltimore, Maryland 21228

RE:
Case Number: 92-43-SA
E/S Hilton Terrace, 180' (-/-) Nely of c/l Oak Court
(6 lots)
1st Election District - 1st Councilmanic
Petitioner(s): Joseph C. Fertitta, et ux
HEARING: WEDNESDAY, OCTOBER 2, 1991 at 9:00 a.m.

Dear Petitioner(s):

Please be advised that \$ 75.00 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.

ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

John H. Dunler, Esq.

111 West Chesapeake Avenue
Towson, MD 21204

AUGUST 13, 1991

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Case Number: 92-43-SA
E/S Hilton Terrace, 180' (-/-) Nely of c/l Oak Court
(6 lots)
1st Election District - 1st Councilmanic
Petitioner(s): Joseph C. Fertitta, et ux
HEARING: WEDNESDAY, OCTOBER 2, 1991 at 9:00 a.m.

Special Variance relating to transportation standards of intersections for a non-industrial development.

Zoning Commissioner of
Baltimore County

cc: Joseph and Marie Fertitta
John H. Dunler, Esq.

COPY

111 West Chesapeake Avenue
Towson, MD 21204

September 25, 1991

John H. Dunler, Esquire
2 E. Fayette Street, Suite 20
Baltimore, MD 21202

RE: Item No. 26, Case No. 92-43-SA
Petitioner: Joseph C. Fertitta, et ux
Petition for Sepcial Variance

Dear Mr. Dunler:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,
James E. Dyer
Chairman
Zoning Plans Advisory Committee

JED:jw

Enclosures

cc: Mr. & Mrs. Joseph C. Fertitta
1322 Ridge Road
Baltimore, MD 21228

111 West Chesapeake Avenue
Towson, MD 21204

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

887-3353

Your petition has been received and accepted for filing this 18th day of July, 1991.

Arnold Jablon
DIRECTOR

Received By:

Chairman,
Zoning Plans Advisory Committee

Petitioner: Joseph C. Fertitta, et ux
Petitioner's Attorney: John H. Dunler

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management
DATE: August 23, 1991
FROM: Pat Keller, Deputy Director
Office of Planning and Zoning
SUBJECT: Fertitia Property, Item No. 26

In reference to the applicant's request, staff submits the attached memo which is self-explanatory.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL:rdn

BUREAU OF TRAFFIC ENGINEERING
DEPARTMENT OF PUBLIC WORKS
BALTIMORE COUNTY, MARYLAND

Date: August 30, 1991

TO: Mr. Arnold Jablon, Director
Office of Zoning Administration
and Development Management

FROM: Rahee J. Famili

SUBJECT: Z. A. C. Comments

Z. A. C. MEETING DATE: July 30, 1991

This office has no comments for item numbers 505,
3, 9, 10, 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, 30 and 31.

Rahee J. Famili
Traffic Engineer II

RJF:bza

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE
August 13, 1991

TO: ZONING COMMISSIONER, DEPARTMENT ZONING
FROM: RICHARD F. SEIM, PLANS REVIEW CHIEF,
DEPARTMENT OF PERMITS & LICENSES
SUBJECT: ZONING ITEM #: 26
PROPERTY OWNER: Joseph C. Fertitta, et ux
LOCATION: E/S Hilton Terrace, 180' (-/-) Nely of
centerline Oak Court (6 lots)
ELECTION DISTRICT: 1st
COUNCILMANIC DISTRICT: 1st

A REVIEW OF THE SITE PLAN FOR THE ABOVE ZONING ITEM INDICATES THE FOLLOWING:

() PROPOSED SITE PLAN DOES, DOES NOT, COMPLY TO STATE CODE OF MARYLAND REGULATION 05.02.02, MARYLAND BUILDING CODE FOR THE HANDICAPPED.

() PARKING LOCATION () RAMPS (degree slope)
() NUMBER PARKING SPACES () CURB CUTS
() BUILDING ACCESS () SIGNAGE

() PLAN DOES, DOES NOT COMPLY TO SET BACKS FOR EXTERIOR FIRE SEPARATION DISTANCE OF ARTICLE 5 AND ARTICLE 9 OF THE CURRENT BALTIMORE COUNTY BUILDING CODE.

() A BUILDING PERMIT IS REQUIRED BEFORE ANY CONSTRUCTION CAN BEGIN. SECTION 111.1 OF ARTICLE 1. CONSTRUCTION DRAWINGS MAY BE REQUIRED.

() A CHANGE OF OCCUPANCY PERMIT IS REQUIRED TO CHANGE THE EXISTING USE OF THE STRUCTURE TO THE PROPOSED USE. SEE ARTICLE THREE AND ARTICLE ONE, SECTION 103.2 ALTERATIONS MAY BE NECESSARY BY CODE TO COMPLY TO NEW USE REQUIREMENTS.

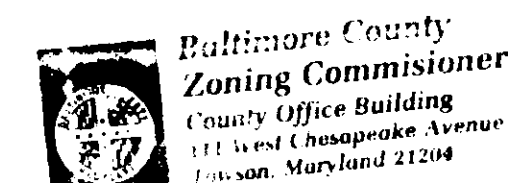
() STRUCTURE IS SUBJECT TO FLOOD PLAIN LIMITATIONS, SECTION 517.0 COUNCIL BILL #192-90 (BALTIMORE COUNTY BUILDING CODE).

() OTHER -

PERMITS MAY BE APPLIED FOR @ ROOM 100, 111 WEST CHESAPEAKE AVENUE, TOWSON, MARYLAND 21204 - PHONE - 887-3900.

THIS REVIEW COVERS ONLY MAJOR ITEMS ASSOCIATED WITH THE SITE PLAN. A FULL REVIEW MAY BE CONDUCTED WHEN THE PERMIT APPLICATION AND PLANS ARE SUBMITTED.

APPLICABLE CODE: 1990 NATIONAL BUILDING CODES AS ADOPTED BY COUNTY COUNCIL BILL #192-90 EFFECTIVE 1/13/91

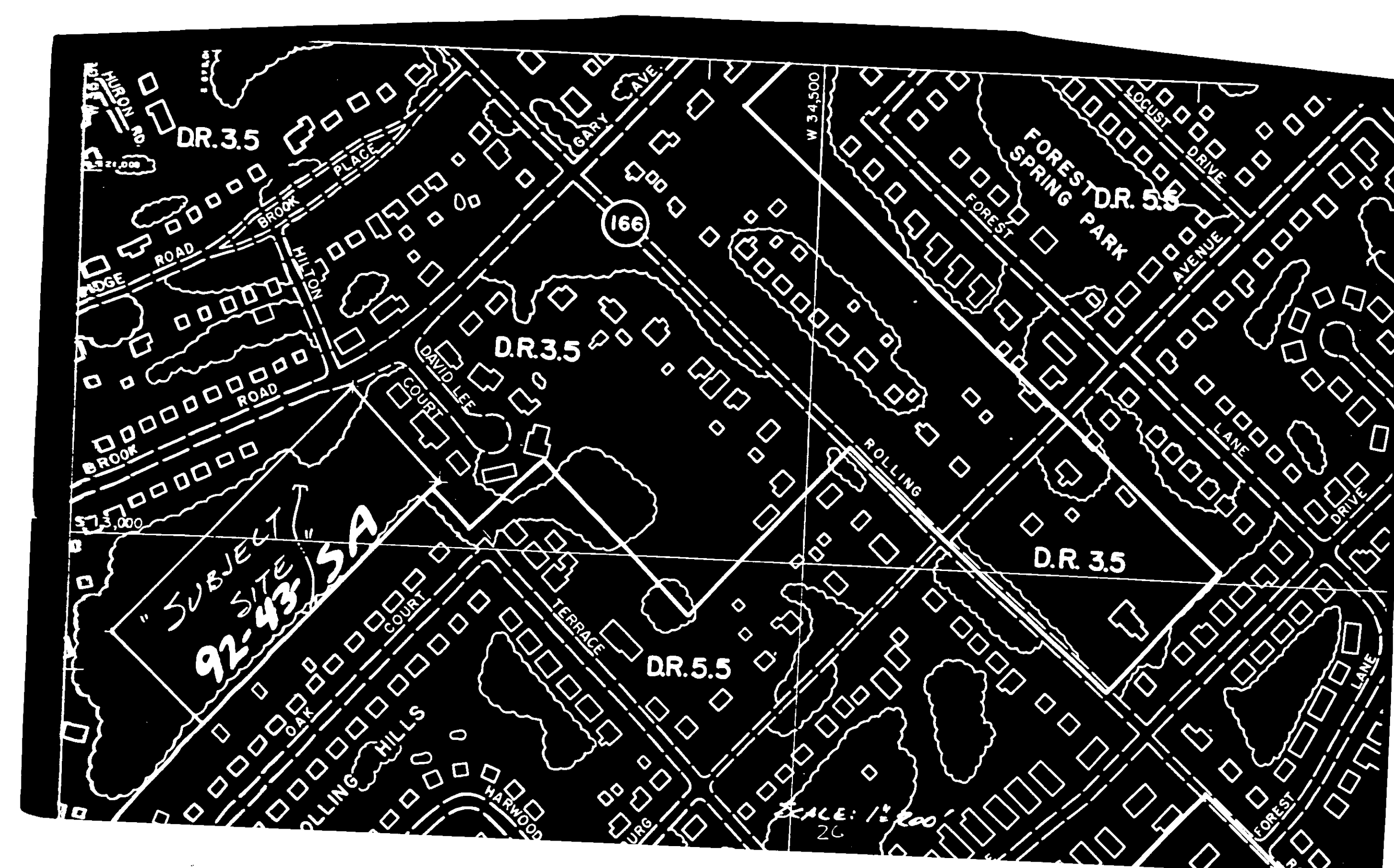


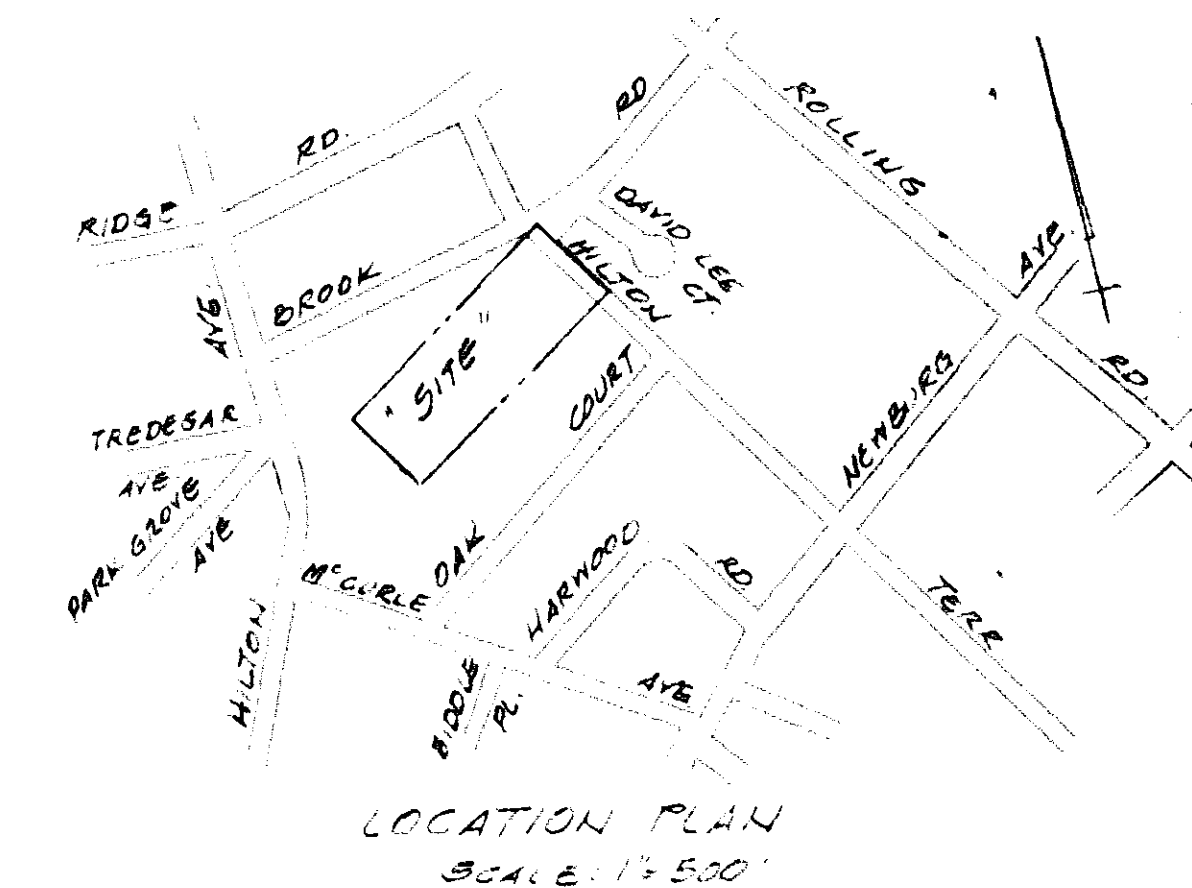
Account: R-001-6150
Number

Date

Please Make Checks Payable To Baltimore County

James L. L.	407 S. College Rd. 21281
James L. L.	407 S. College Rd. 21282
James L. L.	407 S. College Rd. 21283
James L. L.	407 S. College Rd. 21284
James L. L.	407 S. College Rd. 21285
James L. L.	407 S. College Rd. 21286
James L. L.	407 S. College Rd. 21287
James L. L.	407 S. College Rd. 21288
James L. L.	407 S. College Rd. 21289
James L. L.	407 S. College Rd. 21290
James L. L.	407 S. College Rd. 21291
James L. L.	407 S. College Rd. 21292
James L. L.	407 S. College Rd. 21293
James L. L.	407 S. College Rd. 21294
James L. L.	407 S. College Rd. 21295
James L. L.	407 S. College Rd. 21296
James L. L.	407 S. College Rd. 21297
James L. L.	407 S. College Rd. 21298
James L. L.	407 S. College Rd. 21299
James L. L.	407 S. College Rd. 21300





1. AREA OF PROPERTY = 4.25 AC.
2. EXISTING ZONING OF PROPERTY = "DR 35"
3. EXISTING USE OF PROPERTY = "VACANT"
4. PROPOSED ZONING OF PROPERTY = "DR 35"
5. PROPOSED USE OF PROPERTY = "RESIDENTIAL-DETACHED LOTS"
6. # OF LOTS PERMITTED = 488(35) = 14 LOTS
7. # OF LOTS PROPOSED = 6 LOTS (FOR SALE)
8. # OF PARKING SPACES REQUIRED = 275/LOT
9. LOCAL OPEN SPACE WAIVER GRANTED: 4-20-88
10. C.R.G. PLAN APPROVED: 4-22-88 (* 87-384)
11. C.R.G. PLAN EXTENSION APPROVED: 4-23-91
12. C.R.G. REFINEMENT PLAN APPROVED: 1-4-91
13. STORMWATER MANAGEMENT VARIANCE GRANTED: 12-4-90
14. SUBDIVISION PLAN FOR LOTS RESERVED 500-91 (3453-081)
15. 31X(6) BUILDING PERMITS APPROVED FOR PROPERTY: 4-11-91
16. PUBLIC UTILITIES AVAILABLE TO PROPERTY
17. LANDSCAPE PLAN MUST BE APPROVED BY OFFICE OF PLANNING PRIOR TO ISSUANCE OF A BUILDING PERMIT
18. FUTURE OWNER IS REQUESTING A SPECIAL VARIANCE TO SECTION 4402.40 OF THE BOCC FURTHER TO SECTION 4402.11 OF BOCC RELATING TO TRANSPORTATION CONSIDERATION OF INTERSECTIONS FOR A NON-INDUSTRIAL DEVELOPMENT
19. FINAL DEVELOPMENT PLAN APPROVED: 3-8-91

92-43-SA

SPECIAL VARIANCE
FERTITTA PROPERTY

HILTON TERRACE N. OF OAK COURT.
ELECT DIST 10-1 BALTIMORE CO., MD.
SCALE: 1"=30' JULY 16, 1991

**PETITIONER'S
EXHIBIT** 1



PAUL LEE ENGINEERING, INC.
304 W. PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204